



Raymond Kelly
Sr. Compliance Manager

101 Ash Street, HQ08B
San Diego, CA 92101

Tel: 619.696.2954
Fax: 619.696.2500
Mobile: 619.742.8670
rkelly@SempraGlobal.com

November 29, 2005

Ms. Connie Bruins
Compliance Project Manager
California Energy Commission
1516 Ninth Street, MS-2000
Sacramento, CA 95814

Subject: **Request for Modification of CEC Condition of Certification NOISE-6**
Palomar Energy, LLC (01-AFC-24)

Dear Ms. Bruins:

This letter is Palomar Energy, LLC's (Palomar Energy) petition for a proposed modification to the California Energy Commission (Commission) Decision for the Palomar Energy Project (PEP), Docket 01-AFC-24. This petition requests modification of the allowable noise levels resulting from power plant operations at off-site locations as provided in Condition of Certification NOISE-6. This petition to amend the Commission Decision approving the PEP contains all the information required pursuant to 20 CCR Section 1769, Post Certification Amendments and Changes of the Commission's Siting Regulations.

Description of Proposed Modification

Palomar Energy requests that the following changes be made only to the first paragraph of NOISE-6. No modifications are needed or requested to the remaining paragraphs of NOISE-6, including the Verification section. ~~Strikethrough~~ indicates deleted text and ***bold italics*** indicate replacement text.

NOISE-6 The project design and implementation shall include appropriate noise mitigation measures adequate to ensure that operation of the project will not cause resultant noise levels to exceed an hourly average noise level of:

- 37 dBA at any residence in the vicinity of Site 1 (Live Oak Road Neighborhood)
- 44 ~~45~~ dBA at any residence in the vicinity of Site 2 (Oak View Way)
- 43 ~~45~~ dBA at any residence east of the project site

Necessity for Proposed Modification

The requested modification to NOISE-6 is needed to correct a calculation error of the ambient (pre-project) noise level values made by the Commission staff's noise consultant during the initial approval process. This led, in turn, to the inclusion in NOISE-6 of incorrect allowable power plant operational noise levels at two of the three off-site residential locations. The requested change to Condition NOISE-6 is needed to ensure that the Condition is based on sound technical analysis, so that the Condition's requirements are realistic and appropriate.

Modification Based on New Information

Palomar Energy became aware of the flaws in Condition NOISE-6 when the protocol was being developed for conducting the operational noise survey that is required by NOISE-6. Operational noise survey protocol development was undertaken in 2005, well after the Commission Final Decision in August 2003. Developing an appropriate test protocol required a detailed review of the Condition and the methodology by which the allowable noise levels for PEP operations were developed. This was needed in order to ensure that the operational noise survey would yield results that are consistent with the requirements of NOISE-6. It was during this detailed review to develop the survey protocol that the flaws were discovered in the method of calculating ambient background noise levels and in the resulting allowable noise limits for power plant operations.

The proper method of accounting for power plant noise impacts on the nearest receptors (those most impacted by project noise) is to compare the existing ambient background noise regime with the (calculated) noise regime that will exist when the plant is in operation. In order to evaluate the maximum (worst case) impact, the baseline used is the quietest portion of the night, when most people are sleeping. To cancel the effects of short-term anomalies, the quietest four consecutive hours are considered. However, when the Commission staff's consultant calculated the ambient noise regime, several sets of four-hour periods were averaged together. This gave excessive weight to daytime noise levels, which are not normally considered because noise occurring during the daytime is much less intrusive and annoying than nighttime noise. The new information that is the basis for the requested modification to NOISE-6 does not change or undermine assumptions, rationale, findings or other bases of the Commission's final decision approving the PEP.

Analysis of Potential Impacts

The requested modification will have no significant noise impact nor will it affect other technical areas analyzed in the Commission's final decision for the PEP. The modification is required to correct a calculation error and no modifications to power plant facilities or operational practices are required.

To ensure that background noise levels do not exceed noise standards and in furtherance of California Environmental Quality Act goals, Commission staff uses the significance threshold of 5 dBA when project-related noise levels exceed ambient noise levels. For this request to modify PEP Condition NOISE-6, although ambient noise levels will increase at two locations as a result of the correction in calculation methodology, the finding with respect to the significance level of 5 dBA will not change. As shown in the table below, Location 1 is unaffected by the requested modification. At Location 2, the requested increase in the allowable plant noise levels will not change the predicted increase in ambient noise levels presented in the 2003 Commission final decision (a 5 dBA increase is expected in both cases); at Location 3, the requested change will result in a slightly smaller increase (4 dBA instead of 5 dBA) in ambient noise levels than was presented in the Commission decision. In short, the requested modification will not result in a significant impact on noise levels in residential areas near the PEP site.

Location	Status	Background Noise Level (dBA)	Permitted Plant Noise Level (dBA)	Cumulative dBA (Logarithmic Sum)	Increase in Ambient Noise Level* (dBA)
L1 - Live Oak Area	Current Level	34	37	39	+5
	<i>Requested Change</i>	<i>No Change</i>	<i>No Change</i>	<i>No Change</i>	<i>No Change</i>
L2 - Oak View Way	Current Level	36	41	41	+5
	<i>Requested Change</i>	41	45	46	<i>No Change</i>
L3 - Mobile Homes	Current Level	40	43	45	+5
	<i>Requested Change</i>	44	45	48	+4

* Cumulative minus 4-hour background noise level.

Compliance with LORS and Effects on the Public, Nearby Property Owners, and Parties to the Application Proceedings

The requested modification to NOISE-6 is not expected to affect PEP's ability to comply with the applicable LORS, as listed in Appendix A of the Commission decision. The requested modification will not have significant adverse environmental impacts and thus will not have significant adverse effects on the public, on nearby property owners (a list of property owners within 1,000 feet of the PEP site is attached to this petition), or on parties to the application proceedings.

Summary

In summary, as demonstrated in this petition, the requested modification to the Commission's Condition NOISE-6 for the PEP is not expected to have significant adverse effects on nearby property owners or the public, nor will it affect compliance with applicable LORS. Accordingly, Palomar Energy requests that Commission staff expedite review of this petition, and request Commission approval of the proposed modified Condition in accordance with Title 20 CFR Section 1769 (a)(3).

Sincerely,



Raymond Kelly
Senior Compliance Manager

Attachment: Property Owner List

L-CB Palomar Noise 6 Petition Final.doc

Cc: Robert Jackson, PEP
Tom Jennings, PEP
Roger Stanhope, PEP
Taylor Miller, Semptra
Arrie Bachrach, ENSR

ATTACHMENT
LIST OF PROPERTY OWNERS
WITHIN 1,000 FEET OF POWER PLANT SITE

PARCEL	OWNER/FIRST	OWNER/LAST	MAIL NUMBER	MAIL STREET	MAIL CITY	MAIL STATE	MAIL ZIP
1	232 030 33 00 Jrm-Eric I Lp		1040	S Andraesen Dr #200	Escondido	CA	92029
2	232 040 21 00 Energy Resources	Sempra	101	Ash St	San Diego	CA	92101
3	232 040 22 00 Arthur	Astor	10951	Saddlery Rd	Santa Ana	CA	92705
4	232 051 02 00 Palomar Energy Lic		101	Ash St	San Diego	CA	92101
5	232 051 03 00 Palomar Energy Lic		101	Ash St	San Diego	CA	92101
6	232 051 04 00 Sempra Energy Resources		101	Ash St	San Diego	CA	92101
7	232 051 05 00 Sempra Energy Resources		101	Ash St	San Diego	CA	92101
8	232 051 06 00 Royann Ents Lic		14085	Ash St	San Diego	CA	92101
9	232 051 18 00 L B A REALTY FUND-HOLDING CO I		4440	Arbolitos Dr	Poway	CA	92064
10	232 051 25 00 DOWDY PROPERTIES			Von Karman Ave #150	Newport Beach	CA	92660
11	232 051 40 00 MANUFACTURING & PRODUCTION SER		2222	Po Box 3145	Escondido	CA	92033
12	232 051 49 00 TAYLOR FAMILY TRUST		2057	Enterprise St	Escondido	CA	92029
13	232 051 50 00 Dennis W & Peggie A	Key	320	Aldergrove Ave	Escondido	CA	92029
14	232 410 05 00 GOLDEN TRUST I		2316	Market Pl	Escondido	CA	92029
15	232 410 06 00 Patricia A	Clark	2324	Vineyard Ave	Escondido	CA	92029
16	232 410 07 00 Randy G & Patricia A	Clark	2324	Vineyard Ave	Escondido	CA	92029
17	232 410 08 00 Patricia A	Clark	2324	Vineyard Ave	Escondido	CA	92029
18	232 410 09 00 Robert Grant	Miller	30518	Via Maria Elena	Escondido	CA	92029
19	232 410 10 00 OSWALD FAMILY TRUST		555	Lawndale Pl	Bonsall	CA	92003
20	232 410 13 00 Thomas M	Cordova	13220	Cambridge St	San Marcos	CA	92069
21	232 410 14 00 Thomas M	Cordova	13220	Cambridge St	Santa Fe Springs	CA	90670
22	232 410 15 00 Thomas M	Cordova	13220	Cambridge St	Santa Fe Springs	CA	90670
23	232 410 16 00 John M & Carole A	Koyle		Po Box 274	Valley Center	CA	92082
24	232 410 17 00 Gary	Korabeck	2604b	El Camino Real #360	Carlsbad	CA	92008
25	232 410 19 00 Louis A & Hugh L	Hartjen		Po Box 1748	San Marcos	CA	92079
26	232 410 20 00 Louis A & Hugh L	Hartjen		Po Box 1748	San Marcos	CA	92079
27	232 410 21 00 Louis A & Hugh L	Hartjen		Po Box 1748	San Marcos	CA	92079
28	232 410 22 00 COLBORN BONNIE L FAMILY TRUST		17295	Prado Rd	San Diego	CA	92128
29	232 410 23 00 COLBORN BONNIE L FAMILY TRUST		17295	Prado Rd	San Diego	CA	92128
30	232 410 24 00 COLBORN BONNIE L FAMILY TRUST		17295	Prado Rd	San Diego	CA	92128
31	232 410 25 00 COLBORN BONNIE L FAMILY TRUST		17295	Prado Rd	San Diego	CA	92128
32	232 410 28 00 HUNTER FAMILY REVOCABLE TRUST		2333	Vineyard Ave	Escondido	CA	92029
33	232 410 30 00 ALEXANDER FAMILY TRUST		12220	El Camino Real #100	San Diego	CA	92130
34	232 410 31 00 Robert & Joan C	McCullough	3958	Foxley Dr	Escondido	CA	92027
35	232 410 32 00 HALE STREET ASSOCIATIONS L L C		9471	New Colt Ct	El Cajon	CA	92021
36	232 410 33 00 HALE STREET ASSOCIATIONS L L C		9471	New Colt Ct	El Cajon	CA	92021
37	232 410 34 00 HALE STREET ASSOCIATIONS L L C		9471	New Colt Ct	El Cajon	CA	92021
38	232 410 35 00 PARKER FAMILY TRUST 05-27-98		936	Luna Vista Dr	Escondido	CA	92025
39	232 410 36 00 BETZ JAMES B TRUST 08-19-99		5424	Rocking Horse Ln	Oceanside	CA	92057
40	232 410 45 00 CALPEAK POWER-ENTERPRISE L L C		7365	Mission Gorge Rd #c	San Diego	CA	92120
41	232 410 46 00 ENTERPRISE HEIGHTS INDUSTRIAL		5414	Oberlin Dr #140	San Diego	CA	92121

42	232 410 47 00	William A & Kay K	Myers	1915	Briargate Pl	Escondido	CA	92029
43	232 410 48 00	Gregory A	Montegna		Po Box 12006	San Diego	CA	92112
44	232 410 49 00	HITT ENTERPRISES		309	Enterprise St #01	Escondido	CA	92029
45	232 410 50 00	HITT ENTERPRISES		309	Enterprise St #02	Escondido	CA	92029
46	232 410 51 00	CIRCUIT LOGIC INC		311	Enterprise St #1	Escondido	CA	92029
47	232 410 52 00	CIRCUIT LOGIC INC		311	Enterprise St #1	Escondido	CA	92029
48	232 410 53 00	MINOR FAMILY TRUST 08-22-03		3132	Montesano Rd	Escondido	CA	92029
49	232 410 54 00	MINOR FAMILY TRUST 08-22-03		3132	Montesano Rd	Escondido	CA	92029
50	232 410 55 00	DANIEL F SCHALDACH INC		301	Enterprise St #3	Escondido	CA	92029
51	232 410 57 00	Thomas M	Cordova	13220	Cambridge St	Santa Fe Springs	CA	90670
52	232 410 58 00	VINEYARD-ESCONDIDO L L C		10000	Jefferson Blvd	Culver City	CA	90232
53	232 422 02 00	MITCHELL ALFRED V TRUST		525	W El Norte Pkwy #239	Escondido	CA	92026
54	232 422 03 00	MITCHELL ALFRED V TRUST		525	W El Norte Pkwy #239	Escondido	CA	92026
55	232 422 04 00	John P	Herlevic	617	S Vinewood St	Escondido	CA	92029
56	232 422 05 00	John P	Herlevic	617	S Vinewood St	Escondido	CA	92029
57	232 422 06 00	WARD FAMILY REVOCABLE TRUST		3388	Garfield St	Carlsbad	CA	92008
58	232 422 07 00	WARD FAMILY REVOCABLE TRUST		3388	Garfield St	Carlsbad	CA	92008
59	232 422 11 00	RADOS BROTHERS			Po Box 15128	Santa Ana	CA	92735
60	232 422 12 00	RADOS BROTHERS			Po Box 15128	Santa Ana	CA	92735
61	232 422 13 00	QUIRK FAMILY REVOCABLE ESTATE		2973	Harbor Blvd #501	Costa Mesa	CA	92626
62	232 423 01 00	Medulla		748	S Vinewood St #a	Escondido	CA	92029
63	232 423 02 00	MEDULLA REVOCABLE LIVING TRUST		748	S Vinewood St #a	Escondido	CA	92029
64	232 423 03 00	ZATKIN FAMILY TRUST		6346	Via Maria	La Jolla	CA	92037
65	232 423 04 00	ZATKIN FAMILY TRUST		6346	Via Maria	La Jolla	CA	92037
66	232 423 21 00	ZATKIN FAMILY TRUST		6346	Via Maria	La Jolla	CA	92037
67	232 423 22 00	ZATKIN FAMILY TRUST		6346	Via Maria	La Jolla	CA	92037
68	232 423 23 00	ZATKIN FAMILY TRUST		6346	Via Maria	La Jolla	CA	92037
69	232 423 28 00	Judd & Hines-Goldfeder Raye	Goldfeder	621	Via Maria	La Jolla	CA	92037
70	232 423 29 00	John R & Caroline S	Kure	622	S Andreasen Dr	Escondido	CA	92029
71	232 470 19 00	BYPASS FAMILY TRUST		8335	S Vinewood St	Escondido	CA	92029
72	232 470 20 00	Madderbush Lic		1863	Caminito Linterna	La Jolla	CA	92037
73	232 512 01 00	Sempra Energy Resources		101	Commercial St	Escondido	CA	92029
74	232 512 02 00	J R M-E R T C I L P		1040	Ash St	San Diego	CA	92101
75	232 512 19 00	David	Buckley	1405	S Andreasen Dr #200	Escondido	CA	92029
76	232 512 20 00	Randy M	Panno	1403	Kona Kai Ln	Escondido	CA	92029
77	232 512 21 00	Lewis A & Jennifer K	Harkleroad	363	Kona Kai Ln	Escondido	CA	92029
78	232 512 23 00	Lewis A & Jennifer K	Harkleroad	363	Woodland Hills Dr	Escondido	CA	92029
79	232 512 24 00	Ronald G & Carolyn W	Hammock	1420	Woodland Hills Dr	Escondido	CA	92029
80	232 530 02 00	VINEYARD CORNERS INDUSTRIAL CE		990	Kona Kai Ln	Escondido	CA	92029
81	232 530 03 00	FOUNDATION OF PRAISE INC		1616	Highland Dr #202	Solana Beach	CA	92075
82	232 530 04 00	SUNDANCE INVESTMENTS II L P		125	Circa Del Lago #c311	San Marcos	CA	92078
83	232 530 05 00	PRICE FAMILY TRUST 05-22-87		106	State Pl	Escondido	CA	92029

84	232 530 08 00	SUNDANCE INVESTMENTS L P						
85	232 530 09 00	Kenneth H & Marjorie M	Blanchard	125	State Pl	Escondido	CA	92029
86	232 530 10 00	Kenneth H & Marjorie M	Blanchard	125	State Pl	Escondido	CA	92029
87	232 530 11 00	Kenneth H & Marjorie M	Blanchard	125	State Pl	Escondido	CA	92029
88	232 530 12 00	VINEYARD CORNERS INDUSTRIAL		990	Highland Dr #202	Solana Beach	CA	92075
89	232 550 01 00	ANDERSON FAMILY TRUST		943	S Andraesen Dr	Escondido	CA	92029
90	232 550 05 00	Gerald L Tr & Joyce	Mohmann	2080	Wineridge Pl	Escondido	CA	92029
91	232 550 07 00	Wineridge Corners			Po Box 178870	San Diego	CA	92177
92	232 550 08 00	Wineridge Corners			Po Box 178870	San Diego	CA	92177
93	232 550 09 00	Santos L L C		1526	Sterling Ct	Escondido	CA	92029
94	232 550 10 01	MCBRIDE OF HART LLC		9925	Businesspark Ave #a	San Diego	CA	92131
95	232 550 10 02	Georgia L	Hurst	938	S Andraesen Dr #f	Escondido	CA	92029
96	232 550 10 03	McBride & Hart L L C		9925	Businesspark Ave #a	San Diego	CA	92131
97	232 550 10 04	McBride & Hart L L C		9925	Businesspark Ave #a	San Diego	CA	92131
98	232 550 10 05	Joseph	Furmansky	13700	Stowe Dr	Poway	CA	92064
99	232 550 10 06	Future Holdings L L C			Po Box 270198	San Diego	CA	92198
100	232 550 11 00	V I T PROPERTIES L L C		2063	Wineridge Pl	Escondido	CA	92029
101	232 550 12 00	ZUEST INDUSTRIAL BUILDING		2061	Wineridge Pl #150	Escondido	CA	92029
102	232 550 13 00	FORNACA BAKERIES INC		2069	Aldergrove Ave	Escondido	CA	92029
103	232 550 14 00	KENT FAMILY TRUST		3114	Sivkoff Dr	Escondido	CA	92027
104	232 550 15 00	DINDINGER FAMILY TRUST		752	Singing Heights Dr	El Cajon	CA	92019
105	232 550 18 00	CW INDUSTRIAL VENTURE B L L C			Po Box 4900	Scottsdale	AZ	85261